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SIPDIS

SENSITIVE

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SUBJECT: PART I: BRAZIL'S CONTROL OF SENSITIVE TECHNOLOGIES, THE SISCOMEX SYSTEM

¶11. (SBU) Summary & Introduction: The GOB possesses an effective, Internet-based export control licensing system (SISCOMEX), and in discussions with emboffs Brazilian officials could not identify any cases of unauthorized transfers of sensitive items since SISCOMEX has been functioning. Long, porous borders; an overstretched customs service; and a lack of focus on export control enforcement, however, are weak links in Brazil's export control chain. The GOB does not conduct pre-license and post-shipment inspections.

¶12. (SBU) Mission has seen no evidence or information indicating diversion of controlled dual-use exports that pass through the SISCOMEX process. However, it is difficult to access whether items of concern may slip clandestinely through borders owing to enforcement gaps. Due to Brazil's well developed petrochemical sector, chemicals and chemical products make up the bulk of Brazil's licensed, dual-use exports. (Note: Portions of this report were prepared in conjunction with research conducted in Brazil in 2003 by Professor Victor Zaborsky, University of Georgia.)

End Summary

Brazil's Export Control Mechanism

¶13. (U) Law 9112, entitled "Rules of the Export Sensitive Goods and Services," provides the foundation for Brazil's export control system. Signed on Oct. 10, 1995 by then President Cardoso, the law defines those military goods, dual-use items, and services subject to export controls; spells out licensing procedures; establishes an interministerial commission which oversees export controls; stipulates penalties for export control violations; and identifies the Ministry of Defense as supervisory authority for all transactions involving military items. Although short -- the law is only two pages long -- the implementation of Law 9112 helped facilitate Brazil's October 1995 entry into the Missile Technology Control Regime (MTCR) and the Nuclear Suppliers Group (NSG) in April 1996. The Interministerial Commission on Controlling Exports of Sensitive Goods, with representatives from the Ministries of Foreign Affairs; Defense; Development, Industry & Foreign Trade; Science & Technology; and Economy; implements Law 9112 and determines violations of control regulations.

¶14. (SBU) The Department of Nuclear Affairs and Sensitive Technologies (DNASA), Ministry of Science & Technology, is responsible for licensing most controlled exports, including technologies (licensing of conventional military goods belongs to the Ministry of Defense.) According to Monteleone Neto, former Director of DNASA, the Department reviewed about 1,500 export control license applications in 2002; approximately 80% of these applications dealt with controlled dual-use chemicals. In most cases, Monteleone Neto asserted, DNASA is capable of licensing classification and decision-making without outside consultation, although if needed, technical expertise from other government agencies such as the Brazil Space Agency and the National Commission for Nuclear Energy, may be requested.

The SISCOMEX Process

¶15. (U) Brazilian companies seeking export licenses submit their applications through the SISCOMEX (Sistema Integrado de Comercio Exterior), an electronic code registration network maintained and supervised by the Ministry of Development, Industry & Foreign Trade. Established in 1993, the web-based SISCOMEX contains comprehensive profiles of all Brazilian exporters and importers. At present, approximately 23,000 Brazilian companies are registered in SISCOMEX. According to the Ministry's Coordinator for Commercial Operations, only about 100 Brazilian firms are engaged in the manufacture of sensitive dual-use items. The Ministry also maintains a "negative" list of bad exporters and, if warranted, submits any follow-up investigative work to the Federal Police. SISCOMEX declarations identified or suspected as false are also passed to the Central Bank.

¶16. (U) As part of the licensing procedure, DNASA staff review import certificates issued by authorized government agencies of the importing country and determine whether the

foreign importing entity is legally qualified to import the stated goods. DNASA also seeks assurance that the items not be re-exported to a third country without authorization of the importing country. In licensed sales to foreign governments, DNASA requires end-use certificates stating that the imported items will only be used within its national territory and will not be re-exported without prior authorization of the GOB. In some cases, for example when missile or nuclear-related items are involved, exporters require Ministry of Foreign Affairs (Department of Disarmament & Sensitive Technologies and/or Department of Trade Promotion) approval before beginning contract negotiations with a foreign partner. If DNASA doubts the credibility of an end-user on an item deemed to contribute potentially to the development of weapons of mass destruction (chemical, biological or nuclear), it may seek additional information from the Brazilian Intelligence Agency (ABIN).

17. (U) Even though Brazilian exporters of dual-use items are few, exporters occasionally complain about delays in license approvals, and Law 9112 does not contain any time limit provisions. Brazilian exporters appear to comply with the control regulations, and identifiable attempts to evade procedures are very rare, according to the SISCOMEX director.

Maurice Costin, Director of the Department of International Affairs and Foreign Trade in the Federation of Industries of Sao Paulo, Brazil's largest industry association, told Emboffs that he could conceive of a dishonest manager forging an export license or bypassing the licensing process, but asserted he had never heard of any such instance.

Enforcement

18. (U) With 14,691 km of land border and 7,491 km of coastline, Brazil presents a huge challenge to law enforcement agencies, particularly the understaffed and underfunded customs service (Receita Federal). Although Brazilian customs officials are often well trained in inspection techniques for detecting illicit drugs and weapons, U.S. law enforcement officials observe that they often possess very limited expertise and almost no interest in identification of specific, licensed export control items. Customs officials have the power to search, detain, and seize cargoes, but they lack the authority to investigate or arrest and must pass cases to the police. In cases where the validity of an export license is in question, customs may contact DNASA, although in practice, customs officials rarely, if ever, appear to exercise this procedure. Under the Container Security Initiative (CSI), officials from the U.S. Department of Homeland Security (DHS) conducted a port security assessment in 2004. DHS is awaiting GOB approval for the CSI in the form of a Letter of Agreement.

19. (SBU) While the export license decision-making process appears to be relatively free of corruption, the possibility of this problem or other enforcement gaps on the borders cannot be dismissed. Despite the problems in border enforcement, Brazilian officials assert that they know of no case in which dual-use items were smuggled out of the country. Since DNASA does not have the capability of performing pre-license checks or post-shipment verifications -- Brazilian embassies are not staffed for these purposes -- supervision over end-use is non-existent.

110. (SBU) Comment: Brazilian officials are proud of the SISCOMEX network and believe it is a strong licensing mechanism. It does appear that companies registered in SISCOMEX probably conform fully with GOB export control procedures. Enforcement procedures on the ground, however, are less reassuring, and unscrupulous diversion of controlled items could occur without the knowledge of the GOB. Nevertheless, we have not seen evidence to date that dual-use items are slipping out of Brazil. Brazilian-U.S. law enforcement and intelligence cooperation is excellent, and if called upon to investigate suspected activity of illicit exports, we believe the GOB will do its part based on its international commitments.

Danilovich